

charge for retirees and their dependents is \$40.

(f) *Limit on out-of-pocket costs under the uniform HMO benefit.* (1) Total out-of-pocket costs per family of dependents of active duty members under the Uniform HMO Benefit may not exceed \$1,000 during the one-year enrollment period. Total out-of-pocket costs per family of retired members, dependents of retired members and survivors under the Uniform HMO Benefit may not exceed \$3,000 during the one-year enrollment period. For this purpose, out-of-pocket costs means all payments required of beneficiaries under paragraphs (c), (d), and (e) of this section. In any case in which a family reaches this limit, all remaining payments that would have been required of the beneficiary under paragraphs (c), (d), and (e) of this section will be made by the program in which the Uniform HMO Benefit is in effect.

(2) The limits established by paragraph (f)(1) of this section do not apply to out-of-pocket costs incurred pursuant to paragraph (m)(1)(i) or (m)(2)(i) of § 199.17 under the point-of-service option of TRICARE Prime.

(g) *Updates.* The enrollment fees for fiscal year 2001 set under paragraph (c) of this section and the per service specific dollar amounts for fiscal year 2001 set under paragraphs (d) and (e) of this section may be updated for subsequent years to the extent necessary to maintain compliance with statutory requirements pertaining to government costs. This updating does not apply to cost sharing that is expressed as a percentage of allowable charges; these percentages will remain unchanged.

[60 FR 52101, Oct. 5, 1995, as amended at 63 FR 9143, Feb. 24, 1998; 63 FR 48448, Sept. 10, 1998; 66 FR 9656, Feb. 9, 2001; 66 FR 16400, Mar. 26, 2001]

§ 199.20 Continued Health Care Benefit Program (CHCBP).

(a) *Purpose.* The CHCBP is a premium based temporary health care coverage program that will be available to qualified beneficiaries (set forth in paragraph (d)(1) of this section). Medical coverage under this program will mirror the benefits offered via the basic CHAMPUS program. Premium costs for this coverage are payable by enrollees

to a Third Party Administrator. The CHCBP is not part of the CHAMPUS program. However, as set forth in this section, it functions under most of the rules and procedures of CHAMPUS. Because the purpose of the CHCBP is to provide a continuation health care benefit for the Department of Defense and the other Uniformed Services (e.g., NOAA, PHS, and the Coast Guard) health care beneficiaries losing eligibility, it will be administered so that it appears, to the maximum extent possible, to be part of CHAMPUS.

(b) *General provisions.* Except for any provisions the Director, OCHAMPUS may exclude, the general provisions of § 199.1 shall apply to the CHCBP as they do to CHAMPUS.

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in § 199.2 are relevant to the administration of the CHCBP, the definitions contained in that section shall apply to the CHCBP as they do to CHAMPUS.

(d) *Eligibility and enrollment*—(1) *Eligibility.* Enrollment in the CHCBP is open to the following individuals:

(i) Members of Uniformed Services, who:

(A) Are discharged or released from active duty (or full time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions;

(B) Immediately preceding that discharge or release, were entitled to medical and dental care under 10 U.S.C. 1074(a) (except in the case of a member discharged or released from full-time National Guard duty); and,

(C) After that discharge or release and any period of transitional health care provided under 10 U.S.C. 1145(a) would not otherwise be eligible for any benefit under 10 U.S.C. chapter 55.

(ii) A person who:

(A) Ceases to meet requirements for being considered an unmarried dependent child of a member or former member of the armed forces under 10 U.S.C. 1072(2)(D);

(B) On the day before ceasing to meet those requirements, was covered under a health benefits plan under 10 U.S.C. chapter 55, or transitional health care under 10 U.S.C. 1145(a) as a dependent of the member or former member; and,

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(C) Would not otherwise be eligible for any benefits under 10 U.S.C. chapter 55.

(iii) A person who:

(A) Is an unremarried former spouse of a member or former member of the armed forces;

(B) On the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under 10 U.S.C. chapter 55, or transitional health care under 10 U.S.C. 1145(a) as a dependent of the member or former member; and,

(C) Is not a dependent of the member or former member under 10 U.S.C. 1072(2)(F) or (G) or ends a one-year period of dependency under 10 U.S.C. 1072(2)(H).

(iv) An unmarried person who:

(A) Is placed in the legal custody of a member or former member by a court or who is placed in the home of a member or former member by a recognized placement agency in anticipation of the legal adoption of the child; and

(B) Either:

(1) Has not attained the age of 21 if not in school or age 23 if enrolled in a full time course of study at an institution of higher learning; or

(2) Is incapable of self-support because of a mental or physical incapacity which occurred while the person was considered a dependent of the member or former member; and

(C) Is dependent on the member or former member for over one-half of the person's support; and

(D) Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation; and

(E) Is not a dependent of a member or former member as described in § 199.3(b)(2).

(2) *Effective date.* Except for the special transitional provisions in paragraph (r) of this section, eligibility in the CHCBP is limited to individuals who lost their entitlement to regular military health services system benefits on or after October 1, 1994.

(3) *Notification of eligibility.* (i) The Department of Defense and the other Uniformed Services (National Oceanic and Atmospheric Administration (NOAA), Public Health Service (PHS),

Coast Guard) will notify persons eligible to receive health benefits under the CHCBP.

(ii) In the case of a member who becomes (or will become) eligible for continued coverage, the Department of Defense shall notify the member of their rights for coverage as part of pre-separation counseling conducted under 10 U.S.C. 1142.

(iii) In the case of a child of a member or former member who becomes eligible for continued coverage:

(A) The member or former member may submit to the Third Party Administrator a notice of the child's change in status (including the child's name, address, and such other information needed); and

(B) The Third Party Administrator, within 14 days after receiving such information, will inform the child of the child's rights under 10 U.S.C. 1142.

(iv) In the case of a former spouse of a member or former member who becomes eligible for continued coverage, the Third Party Administrator will notify the individual of eligibility for CHCBP when he or she declares the change in marital status to a military personnel office.

(4) *Election of coverage.* (i) In order to obtain continued coverage, written election by eligible beneficiary must be made, within a prescribed time period. In the case of a member discharged or released from active duty (or full time National Guard duty), whether voluntarily or involuntarily; an unremarried spouse of a member or former member; or a child emancipated from a member or former member, the written election shall be submitted to the Third Party Administrator before the end of the 60-day period beginning on the later of:

(A) The date of the discharge or release of the member from active duty or full-time National Guard duty;

(B) The date on which the period of transitional health care applicable to the member under 10 U.S.C. 1145(a) ends;

(C) In the case of an unremarried former spouse of a member or former member, the date the one-year extension of dependency under 10 U.S.C. 1072(2)(H) expires; or

(D) The date the member receives the notification of eligibility.

(ii) A member of the armed forces who is eligible for enrollment under paragraph (d)(1)(i) of this section may elect self-only or family coverage. Family members who may be included in such family coverage are the spouse and children of the member.

(5) *Enrollment.* Enrollment in the Continued Health Care Benefit Program will be accomplished by submission of an application to a Third Party Administrator (TPA). Upon submittal of an application to the Third Party Administrator, the enrollee must submit proof of eligibility. One of the following types of evidence will validate eligibility for care:

(i) A Defense Enrollment Eligibility Reporting System (DEERS) printout which indicates the appropriate sponsor status and the sponsor's and dependent's eligibility dates;

(ii) A copy of a verified and approved DD Form 1172, "Application for Uniformed Services Identification and Privilege Card";

(iii) A front and back copy of a DD Form 1173, "Uniformed Services Identification and Privilege Card" over-stamped "TA" for Transition Assistance Management Program; or

(iv) A copy of a DD Form 214—"Certificate of Release or Discharge from Active Duty".

(6) *Period of coverage.* CHCBP coverage may not extend beyond:

(i) For a member discharged or released from active duty (or full time National Guard duty), whether voluntarily or involuntarily, the date which is 18 months after the date the member ceases to be entitled to care under 10 U.S.C. 1074(a) and any transitional care under 10 U.S.C. 1145.

(ii) In the case of an unmarried dependent child of a member or former member, the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under 10 U.S.C. 1072(2)(D).

(iii) In the case of an unremarried former spouse of a member or former member, the date which is 36 months after the later of:

(A) The date on which the final decree of divorce, dissolution, or annulment occurs; or

(B) If applicable, the date the one-year extension of dependency under 10 U.S.C. 1072(2)(H) expires.

(iv) In the case of an unremarried former spouse of a member or former member, whose divorce occurred prior to the end of transitional coverage, the period of coverage under the CHCBP is unlimited, if:

(A) Has not remarried before the age of 55; and

(B) Was enrolled in the CHCBP as the dependent of an involuntarily separated member during the 18-month period before the date of the divorce, dissolution, or annulment; and

(C) Is receiving a portion of the retired or retainer pay of a member or former member or an annuity based on the retainer pay of the member; or

(D) Has a court order for payment of any portion of the retired or retainer pay; or

(E) Has a written agreement (whether voluntary or pursuant to a court order) which provides for an election by the member or former member to provide an annuity to the former spouse.

(v) For the beneficiary who becomes eligible for the Continued Health Care Benefit Program by ceasing to meet the requirements for being considered an unmarried dependent child of a member or former member, health care coverage may not extend beyond the date which is 36 months after the date the member becomes ineligible for medical and dental care under 10 U.S.C. 1074(a) and any transitional health care under 10 U.S.C. 1145(a).

(vi) Though beneficiaries have sixty-days (60) to elect coverage under the CHCBP, upon enrolling, the period of coverage must begin the day after entitlement to a military health care plan (including transitional health care under 10 U.S.C. 1145(a)) ends.

(e) *CHCBP benefits*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, the provisions of § 199.4 shall apply to the CHCBP as they do to CHAMPUS.

(2) *Exceptions.* The following provisions of § 199.4 are not applicable to the CHCBP:

(i) Paragraph (a)(2) of this section concerning eligibility:

(ii) All provisions regarding non-availability statements or requirements to use facilities of the Uniformed Services.

(3) *Beneficiary liability.* For purposes of CHAMPUS deductible and cost sharing requirements and catastrophic cap limits, amounts applicable to the categories of beneficiaries to which the CHCBP enrollee last belonged shall continue to apply, except that for separating active duty members, amounts applicable to dependents of active duty members shall apply.

(f) *Authorized providers.* The provisions of §199.6 shall apply to the CHCBP as they do to CHAMPUS.

(g) *Claims submission, review, and payment.* The provisions of §199.7 shall apply to the CHCBP as they do to CHAMPUS, except that no provisions regarding nonavailability statements shall apply.

(h) *Double coverage.* The provisions of §199.8 shall apply to the CHCBP as they do to CHAMPUS.

(i) *Fraud, abuse, and conflict of interest.* Administrative remedies for fraud, abuse and conflict of interest. The provisions of §199.9 shall apply to the CHCBP as they do to CHAMPUS.

(j) *Appeal and hearing procedures.* The provisions of §199.10 shall apply to the CHCBP as they do to CHAMPUS.

(k) *Overpayment recovery.* The provisions of §199.11 shall apply to the CHCBP as they do to CHAMPUS.

(l) *Third Party recoveries.* The provisions of §199.12 shall apply to the CHCBP as they do to CHAMPUS.

(m) *Provider reimbursement methods.* The provisions of §199.14 shall apply to the CHCBP as they do to CHAMPUS.

(n) *Peer Review Organization Program.* The provisions of §199.15 shall apply to the CHCBP as they do to CHAMPUS.

(o) *Preferred provider organization programs available.* Any preferred provider organization program under this part that provides for reduced cost sharing for using designated providers, such as the "TRICARE Extra" option under §199.17, shall be available to participants in the CHCBP as it is to CHAMPUS beneficiaries.

(p) *Special programs not applicable—(1) In general.* Special programs established under this part that are not part of the basic CHAMPUS program estab-

lished pursuant to 10 U.S.C. 1079 and 1086 are not, unless specifically provided in this section, available to participants in the CHCBP.

(2) *Examples.* The special programs referred to in paragraph (p)(1) of this section include:

(i) The Extended Care Health Option (ECHO) under §199.5.

(ii) The Active Duty Dependents Dental Plan under §199.13;

(iii) The Supplemental Health Care Program under §199.16; and

(iv) The TRICARE Enrollment Program under §199.17, except for TRICARE Extra program under that section.

(3) *Exemptions to the restriction.* In addition to the provision to make TRICARE Extra available to CHCBP beneficiaries, the following two demonstration projects are also available to CHCBP enrollees:

(i) Home Health Care Demonstration; and

(ii) Home Health Care-Case Management Demonstration.

(q) *Premiums—(1) Rates.* Premium rates will be established by the Assistant Secretary of Defense (Health Affairs) for two rate groups—individual and family. Eligible beneficiaries will select the level of coverage they require at the time of initial enrollment (either individual or family) and pay the appropriate premium payment. The rates are based on Federal Employee Health Benefit Program employee and agency contributions required for a comparable health benefits plan, plus an administrative fee. The administrative fee, not to exceed ten percent of the basic premium amount, shall be determined based on actual expected administrative costs for administration of the program. Premiums may be revised annually and shall be published annually for each fiscal year. Premiums will be paid by enrollees quarterly.

(2) Effects of failure to make premium payments. Failure by enrollees to submit timely and proper premium payments will result in denial of continued enrollment and denial of payment of medical claims. Premium payments which are late 30 days or more past the start of the quarter for which

payment is due will result in the ending of beneficiary enrollment. Beneficiaries denied continued enrollment due to lack of premium payments will not be allowed to reenroll. In such a case, benefit coverage will cease at the end of the ninety day (90) period for which a premium payment was received. Enrollees will be held liable for medical costs incurred after losing eligibility.

(r) *Transitional provisions.* (1) There will be a sixty-day period of enrollment for all eligible beneficiaries (outlined in paragraph (d)(1) of this section) whose entitlement to regular military health services system coverage ended on or after August 2, 1994, but prior to the CHCBP implementation on October 1, 1994.

(2) Enrollment in the U.S. VIP program may continue up to October 1, 1994. Policies written prior to October 1, 1994, will remain in effect until the end of the policy life.

(3) On or after the October 1, 1994, implementation of the Continued Health Care Benefit Program, beneficiaries who enrolled in the U.S. VIP program prior to October 1, 1994, may elect to cancel their U.S. VIP policy and enroll in the CHCBP.

(4) With the exception of persons enrolled in the U.S. VIP program who may convert to the CHCBP, individuals who lost their entitlement to regular military health services system coverage prior to August 2, 1994, are not eligible for the CHCBP.

(s) *Procedures.* The Director, OCHAMPUS, may establish other rules and procedures for the administration of the Continued Health Care Benefit Program.

[59 FR 49818, Sept. 30, 1994, as amended at 62 FR 35097, June 30, 1997; 64 FR 46141, Aug. 24, 1999; 69 FR 51569, Aug. 20, 2004]

§ 199.21 Pharmacy benefits program.

(a) General—(1) *Statutory authority.* Title 10, U.S. Code, Section 1074g requires that the Department of Defense establish an effective, efficient, integrated pharmacy benefits program for the Military Health System. This law is independent of a number of sections of Title 10 and other laws that affect the benefits, rules, and procedures of TRICARE, resulting in changes to the

rules otherwise applicable to TRICARE Prime, Standard, and Extra.

(2) *Pharmacy benefits program.* The pharmacy benefits program, which includes the uniform formulary and its associated tiered co-payment structure, is applicable to all of the uniformed services. Its geographical applicability is all 50 states and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. In addition, if authorized by the Assistant Secretary of Defense (Health Affairs), the TRICARE program may be implemented in areas outside the 50 states and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. In such case, the Assistant Secretary of Defense (Health Affairs) may also authorize modifications to the pharmacy benefits program rules as may be appropriate to the areas involved.

(3) *Uniform formulary.* The pharmacy benefits program features a uniform formulary of pharmaceutical agents as defined in § 199.2.

(i) The uniform formulary will assure the availability of pharmaceutical agents in the complete range of therapeutic classes authorized as basic program benefits.

(ii) As required by 10 U.S.C. 1074g(a)(2) and implemented under the procedures established by paragraphs (e) and (f) of this section, pharmaceutical agents in each therapeutic class are selected for inclusion on the uniform formulary based upon the relative clinical effectiveness and cost effectiveness of the agents in such class. If a pharmaceutical agent in a therapeutic class is determined by the Department of Defense Pharmacy and Therapeutics Committee not to have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over other pharmaceutical agents included on the uniform formulary, the Committee may recommend it be classified as a non-formulary agent. In addition, if the evaluation by the Pharmacy and Therapeutics Committee concludes that a pharmaceutical agent in a therapeutic class is not cost effective relative to other pharmaceutical agents in that therapeutic class, considering costs, safety, effectiveness, and clinical outcomes, the Committee